

Minutes of the Special and Regular Meetings of January 24, 2006

SPECIAL MEETINGS

CLOSED SESSION – 5:40 P.M.

- A. Conference regarding Public Employee Appointment Pursuant to Government Code Section 54957: City Manager
- B. Conference with legal counsel, initiation of litigation, Government Code Section 54956.9(c): one case.

Attended by Councilmembers Feierbach, Warden, Dickenson, Lieberman, Mathewson, Interim City Manager Crist, Consultant Bill Avery (Item A only), City Attorney Zafferano (Item B only), and Interim Parks and Recreation Director Bridges (Item B only). City Clerk Cook was excused from attending.

ADJOURNMENT at this time, being 7:10 P.M., these Closed Sessions were adjourned.

Terri Cook

City Clerk

These meetings not tape-recorded or videotaped.

REGULAR MEETING

CALL TO ORDER - 7:30 P.M.

ROLL CALL

COUNCILMEMBERS PRESENT: Feierbach, Lieberman, Dickenson, Warden, Mathewson

COUNCILMEMBERS ABSENT: None

Staff Present: Interim City Manager Crist, City Attorney Zafferano, Community Development Director de Melo, Public Works Director Davis, Finance Director Fil, Fire Chief Lowden, Police Chief Mattei, City Clerk Cook.

PLEDGE OF ALLEGIANCE

Led by City Clerk Cook

REPORT FROM CLOSED SESSION

Mayor Mathewson reported that direction was given but no action taken during Closed Sessions held earlier.

SPECIAL PRESENTATIONS

Recognition of Girl Scout Gold Award recipients

Mayor Mathewson stated that Girl Scout Gold Award recipients (Jennifer Whited, Kimberly O'Neill, Hana Rahimi, and Melissa Ruk) had received their Proclamations at a ceremony held in December, and two of them were in attendance this evening, Ms. Whited and Ms. O'Neill. He described their community service projects.

Jennifer Whited, Gold Award Recipient, stated that she enjoyed the opportunity to exhibit her leadership skills. She is in the Carlmont Show Choir and is a choreographer.

Kimberly O'Neill, Gold Award Recipient, stated that she has been playing clarinet since the fourth grade, and her project of teaching music to fourth and fifth graders was a way to give back.

Proclamation in Recognition of "Go Red for Women" (American Heart Association)

Mayor Mathewson presented the Proclamation which brings attention to heart health in women. He noted that people are being encouraged to wear red on February 3 as a reminder of this important health issue.

Allied Waste/BFI New Route Collection Schedule

Stacy Wagner, Allied Waste Representative, stated that 80 percent of the residential customers in Belmont would experience a new trash collection schedule effective the first week of February. She noted that previously these customers were serviced only on Mondays, and now there would be collections every weekday, and the recycling would be the same day, every-other-week. She explained that the crew would be solely responsible for Belmont customers, which will provide for specialized services and requests, and is a cost-control measure. It also provides for balanced routes for drivers. She explained the additional services provided during the transition time to accommodate the long period to the new pickup day. She described the outreach program to inform customers of the new route. She noted that City staff also has information available for customers.

Mayor Mathewson stated that he logged onto Allied's website and was able to obtain the information regarding his home's new trash pickup schedule.

In response to Council questions, Ms. Wagner stated that residents should be prepared for trash pickup as early as 6:00 a.m. She also stated that Allied's phone service had been modified, and new customer service agents hired, to reduce the long hold times people have been experiencing on the phones.

PUBLIC COMMENTS AND ANNOUNCEMENTS

Robert Mayer, on behalf of Neighborhoods First, requested that McDougal Park be open and available to all residents. He noted that McDougal Park meets none of the General Plan criteria regarding parks. He also noted that the agreement with Charles Armstrong School limits the use of the park and that it pays no taxes.

Carol Rossi, San Juan Canyon Preservation Trust, announced that the Trust received a monetary donation and a parcel of land.

John Violet, Friends of the Belmont Library, announced that the Taube Family Foundation had made a \$60,000 contribution to the new Library, and the Community Room would be named in their honor. He also noted that an aggregate of \$5,000 had been received as a memorial contribution to author Sashi Raval. He also announced that the Friends had reached its fundraising goal of \$350,000, and that some of the proceeds would pay for the electronic sorting machine.

COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS

Councilmember Feierbach stated that the City's information available on Cable Channel 27 had been updated and improved.

Councilmember Lieberman congratulated the Friends of the Belmont Library for achieving its fundraising goal.

Mayor Mathewson stated that the City would be sponsoring an indoor flea market on February 11 in the Senior and Community Center. He also announced that the deadline for Commission applications was set for January 27th.

RECESS, at this time, being 8:10 p.m., to convene the Joint Powers Financing Authority Meeting.

RECONVENE: 10:25 P.M.

AGENDA AMENDMENTS

Mayor Mathewson noted that Item 7-A (Discussion and Direction on Automated Red Light Camera Enforcement) would be postponed to the next Council meeting.

Councilmember Dickenson requested the removal of Item 4-D (Resolution Approving City of Belmont Investment Policy), and Councilmember Warden requested the removal of item 4-F (Resolution Authorizing an Agreement with Maze & Associates for Continuing Auditing Services), for separate consideration.

CONSENT CALENDAR

Approval of Minutes of Regular and Special Meeting of December 13, 2005.

Acceptance of Belmont Library/Belameda Park Project - December/January Monthly Update

Acceptance of Police Department/City Hall Project - January Monthly Update

Approval of Resolution 9743 Approving the Renewal of the Field Use Agreement with Belmont/Redwood Shores School District

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Lieberman, the Consent Agenda was unanimously approved, as amended, by a show of hands.

MEETING EXTENSION: At this time, being 10:30 p.m., on a motion by Councilmember Warden, seconded by Councilmember Feierbach, the meeting was unanimously extended by ninety minutes by a show of hands.

ITEMS REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION:

Resolution Approving City of Belmont Investment Policy

In response to Councilmember Dickenson's request for the types and level of aggressiveness for investments, City Treasurer Violet responded that the City of Belmont realized a 3.8 percent return on its investment at the Local Area Investment Fund (LAIF). He noted LAIF is safe, provides a reasonable rate of return, and is liquid.

Mayor Mathewson stated that other investment options could be pursued, and noted that financial security is necessary.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Lieberman, Resolution 9744 Approving City of Belmont Investment Policy was unanimously approved by a show of hands.

Resolution Authorizing an Agreement with Maze & Associates for Continuing Auditing Services

Councilmember Warden noted that Maze & Associates had performed audit services for eight years, and at a contractual amount of nearly \$100,000 annually, the City may wish to consider going out to bid.

Finance Director Fil stated that Maze has done a good and thorough job for the City. He noted this may be a rotation issue, and the request could be made for a different partner. Councilmember Lieberman supported this recommendation.

Councilmember Feierbach stated she did not support an additional five-year contract with Maze.

Councilmember Dickenson stated it was a good practice to go out for a Request for Proposal (RFP) on a regular basis.

Finance Director Fil responded that a one-year contract would be a good solution.

ACTION: On a motion by Councilmember Warden, seconded by Councilmember Feierbach, Resolution 9745 Authorizing an Agreement with Maze & Associates for Continuing Auditing Services for the fiscal year ending 2006, at an amount not to exceed \$88,537, was unanimously approved by a show of hands.

HEARINGS

Public Hearing to Consider an Appeal of the Planning Commission decision denying a Floor Area Variance and Single Family Design Review for Property at 49 Ralston Ranch Road

Community Development Director de Melo reviewed the appellant's variance request, and noted that the Planning Commission was unable to make two of the required findings to grant the variance. He reviewed the documentation submitted by the appellant, and noted that the recommendation is that the Commission did not abuse its discretion, and that Council should uphold the Commission decision to deny the variance.

Mayor Mathewson opening the Public Hearing.

Paul Smoot, Attorney on behalf of Appellant, stated that this issue relates to parity, disparate treatment, and conformity. He reviewed the appellant's plans, and noted that they conform to the City's requirements. The only negative letter received relates to the subdivision itself. He cited case law outlining substantial parity issues in other cases. He produced color photos of other larger homes in the neighborhood, and noted that variances have been granted. He stated that a 740 square-foot home is

not reasonable use and constitutes inverse condemnation. He noted the applicant's lot is 13,000 square feet.

Mr. Smoot commented that in previous years, the Planning Commission induced the Denekes to merge three lots into two in order to conform their house size to others in the neighborhood, and then the City changed the rules. He stated the current regulations constitute a hardship and are inconsistent with the General Plan and the Zoning Plan, and a smaller home will impact the neighborhood. This parcel contains exceptional circumstances, and the appellants should be given the same rights and privileges as others in order to conform to the regulations.

Michael McHugh, Belmont Canyon Road, stated he lives adjacent to the Deneke property. He noted that the one neighbor who has objected to this variance also demanded from him the removal of brush and debris from his property. He supports the variance.

Michael Scholder, Ralston Ranch Road, stated he supported the variance, since a smaller home would have a negative impact on the neighborhood. He noted that twelve homes in the vicinity are approximately 3500 square feet each on smaller lots.

David Long, Planning Commissioner, noted that the decision by the Planning Commission was unanimous. He also noted the objection is treatment by the Commission, and applicable rules. The Commission often has to make a judgment call, and in this case, no slack was given as no Commissioner felt the need to do so. He clarified that he did not have a pre-defined opinion prior to the hearing on this matter, and had had no discussion with anyone regarding the project prior to the Hearing. His decision was based on the staff report, a site visit, and testimony at the Hearing. The Planning Commission did not err in this matter.

Paul Smoot, Attorney for Appellant, expressed his disagreement with the findings. He stated the Commission should follow the rules except if the property is out of the ordinary. He urged the Council to do what is fair. The new home will not conform under the current rules.

In response to Councilmember Feierbach's questions regarding conformity with the General Plan and the San Juan Plan, **Mr. Smoot** responded that the sense of how Belmont wants to grow is embodied in the General Plan, and that the proposed home is in conformity with the General Plan and the Zoning Plan.

Community Development Director de Melo clarified that this property is zoned HRO-2. This lot and others in the area are not part of the Ralston Ranch subdivision. He explained the differences between exception and variance.

Councilmember Feierbach stated that the intent of the San Juan Plan is to merge small lots to achieve larger home sizes. The 1997 action to grant exceptions on two of the lots created the eyesore that one can now see, and the variances should not have been granted. The appellants have an option to transfer floor area from another vacant lot in order to achieve conformity.

In response to Councilmember Warden regarding the precedence of granting a variance, City Attorney Zafferano clarified that Mr. Smoot's argument would allow all variances, and that is not the intent of the law. Variances are based on physical characteristics of the parcel. The Commission noted no special characteristics to grant the variance. Other lots are not the same. The law changed since the 1997 actions, and exceptions are no longer allowed, but a variance is required. There is no vested right to a variance.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Warden, the Public Hearing was unanimously closed by a show of hands.

Councilmember Feierbach stated that she cannot make the findings to grant the variance. She could grant an exception if they were permitted. She supports the Planning Commission's actions. She noted this area represents the beginning of the San Juan Canyon, and projects should abide by the rules for this region, which are strict.

Councilmember Lieberman stated that variances should not be approached lightly. The Planning Commission did a good job analyzing the law, although he does not agree with the law. He can make findings (a) and (b). He commented that a 1500 square foot home is a hardship and is out of character with larger homes in the neighborhood. The action of the lot merger was consistent with the General Plan. The appellant took action to comply.

Councilmember Dickenson stated he was a member of the Planning Commission that heard this item, and has nothing to add.

Councilmember Warden stated he cannot make the findings for a variance.

Mayor Mathewson stated he, too, cannot make the findings. He noted the law has changed since the applicants acquired the property. A variance would negate the goal of the HRO-2 zoning.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Dickenson, and approved by a show of hands (4-0-1, Lieberman abstain), to approve Resolution 9746 Upholding the Planning Commission decision denying a Floor Area Variance and Single Family Design Review for Property at 49 Ralston Ranch Road

Councilmember Lieberman clarified that he abstained because he did not want to vote against the rest of the City Council on this matter.

RECESS: 11:25 P.M.

RECONVENE: 11:30 P.M.

Public Hearing to Consider and Ordinance amending Municipal Code Chapter 2, Article VII (Finance Commission).

City Attorney Zafferano reviewed the proposed amendments to the Municipal Code governing the Finance Commission. He noted the primary changes included reduction of the number of commissioners from nine to seven, and that the City Council would interview and directly appointment commissioners.

Mayor Mathewson opened the Public Hearing.

Bob Ledoux, Finance Commissioner, stated that he did not support the proposed amendments. Until the discussion at the previous Council meeting, he was unaware of complaints of the Commission. He noted that the Commission has an occasional attendance issue, but most are excused. He stated that good business people are needed for the Finance Commission. All are busy, and meetings are sometimes rescheduled. It is not a sign of disrespect. There are few visitors to the Finance Commission meetings. He commented that there has been a tradition that the Finance Commission is not a springboard to running for City Council, but Commissioners do not surrender their right to do so. He noted that the City

needs new revenue sources, and he was surprised to hear that some Councilmembers do not support the Commission brainstorming ideas.

David Long, Planning Commissioner, stated that it is valid for the City Council to review the appointment process. He stated that input of commissioners should be valued. He cited recent examples of changes with various commissions, such as the disbanding of the Arts Commission, resignations on the Planning Commission, and the Park and Recreation Commission review of some items brought before the Planning Commission. He expressed concern regarding vacancies on the Finance Commission, which could be exacerbated by the proposed amendments. He stated it is important for the Commission to be fully independent. He questioned whether these amendments will fix whatever is broken.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Warden, the Public Hearing was unanimously closed by a show of hands.

Councilmember Warden stated that Finance Commission attendance is an issue. He noted that everyone is busy. He expects Commissioners to make a commitment. He has lost income during his commitment to serve on the City Council. Missing three or four meetings is unacceptable in light of the fact that the Commission meets only once per month and sometimes cancels meetings. He commented that he does not support the current appointment process whereby applicants withdraw if they do not conform to the group. There is no process, and applicants are discouraged. He reviewed the Commission's list of duties and noted that it may be more desirable to hold fewer meetings less often. He stated the proposed changes would raise the bar for the Commission, including the use of parliamentary procedure.

Councilmember Lieberman agreed that commitment is important, and that the Finance Commission takes their commitment seriously. He stated that the Commission should not be held to the same standard as City Councilmembers, since Councilmembers receive a stipend and benefits totaling \$17,000 annually. He also noted that the Finance Commission used to meet twice per month, and meeting less than once per month may result in a loss of momentum. The Finance Commission has different responsibilities from the other commissions, requiring different knowledge and training. He supports the City Treasurer's recommendation to have the Finance Commission present a panel of applicants from which the Council could choose. He stated the proposed changes may not affect attendance.

Councilmember Feierbach stated that there was no quorum of Finance Commissioners at the joint meeting with the City Council, and noted that when other commissions meet for a joint meeting, all are

in attendance. She supports the Council interview process as a way to bridge the separation between the Council and Finance Commission. She commented that the Commission has already become more professional since it began using the Council Chambers for its meetings.

MEETING EXTENSION: At this time, being 12:00 midnight, on a motion by Councilmember Dickenson, seconded by Councilmember Lieberman, the meeting was unanimously extended by thirty minutes by a show of hands.

Discussion ensued.

Councilmember Dickenson stated that the Finance Commissioners serve to the best of their ability, and there is a disconnect between the City Council and the Finance Commission. He noted the City Council needs to communicate with the Commission regarding its expectations.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Warden, and approved by a show of hands (4-1, Lieberman no) to introduce an Ordinance amending Municipal Code Chapter 2, Article VII as proposed, waive further reading, and set the second reading and adoption for February 14, 2006.

OLD BUSINESS

Discussion and Direction regarding Animal Control Ordinance

City Attorney Zafferano stated that some cities and County of San Mateo have already approved this ordinance.

Mayor Mathewson noted that Council had received correspondence regarding language associating vicious animals as those which do harm to other wild animals. City Attorney Zafferano responded that there would always be an investigation prior to the issuance of a citation on these matters, and there would unlikely be a complaint in such a case.

In response to Councilmember Warden's question regarding a dog attacking an intruder, City Attorney Zafferano clarified that by law, property owners need to act reasonably toward a trespasser. Police Chief Mattei noted that the facts would be taken into consideration prior to the issuance of a violation.

City Attorney Zafferano stated that this ordinance would be placed on a future agenda for a Public Hearing to adopt the amendments.

Resolution Authorizing Issuance of Series 2006 Sewer Revenue Bonds

Finance Director Fil stated that this is a companion resolution to the one adopted earlier during the Joint Powers Financing Authority (JPFA).

In response to Councilmember Warden, Finance Director Fil confirmed that the dollar amount of the bond issuance is driven by the \$7.5 million total set forth by the resolution passed by the JPFA.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Lieberman, Resolution 9747 Authorizing Issuance of Series 2006 Sewer Revenue Bonds was approved by a show of hands (3-2, Warden/Dickenson no).

NEW BUSINESS

Discussion and Direction on Automated Red Light Camera Enforcement (continued to February 14, 2006.)

COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS

Councilmember Dickenson stated that the City's letter in support of SB 1038 regarding solar energy was sent to our local legislators. He noted that Senator Simitian of Palo Alto may be introducing legislation.

Councilmember Dickenson also noted that he recently attended a San Francisco Airport Roundtable meeting. The Town of Portola Valley held a special roundtable recently to address in-bound flight patterns and noise abatement. He provided contact information regarding this issue.

MATTERS OF COUNCIL INTEREST/CLARIFICATION

Consideration of letter of support regarding urgency State legislation for all-mail ballot for June Primary Election (Mayor).

Mayor Mathewson stated that a request had been made by Warren Slocum, County Clerk/Recorder, for support for this legislation in the event a new voting machine could not be certified in time for the June election.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Warden, Resolution 9748 Supporting Urgency Legislation Authorizing Any County in California the Option to Conduct the June 6, 2006 Gubernatorial Primary Election by All-Mail Ballot, was unanimously approved by a show of hands.

Reconsideration of Council assignment to special Fire 2+2 committee (Feierbach)

Councilmember Feierbach stated that following Belmont's appointment to this committee, San Carlos members are also the two delegates from the South County Fire Authority (SCFA), and recommended that she replace Mayor Mathewson on the subcommittee.

ACTION: On a motion by Councilmember Lieberman, seconded by Councilmember Feierbach, and unanimously approved by a show of hands to add this as an urgent action item to tonight's agenda since the issue arose following the posting of the agenda.

ACTION: On a motion by Councilmember Warden, seconded by Councilmember Dickenson, and unanimously approved by a show of hands to replace Mayor Mathewson with Councilmember Feierbach as the second member of the Special Fire 2+2 Subcommittee.

Discussion and direction regarding police staffing levels (Dickenson)

Councilmember Dickenson stated that he would like to review this issue prior to the development of next year's Budget.

Police Chief Mattei noted that he could present staffing options during the upcoming mid-year budget discussions.

Councilmember Warden stated that if the City ends up with its own fire department, there is the potential for a public safety assessment to include the police department.

Review of Grade Separation Landscaping (Warden)

Councilmember Warden stated that the landscaping in the area of the grade separation is less than desirable. With the recent Grand Boulevard potential, this area is all tied together.

Community Development Director de Melo noted that this subject has been discussed in conjunction with the Grand Boulevard issue, and concurs that landscaping improvements could be incorporated as part of that plan.

Consideration of Changes of Administrative Approval of Floor Area Ratio (Feierbach)

Councilmember Feierbach expressed concern that existing regulations permit administrative exceptions to be made for floor area ratios which exceed the accumulative allowed. She noted this has happened with several applications. She would like to work with staff to change the regulations.

Councilmember Dickenson recommended that this issue be addressed by the Permit Efficiency Task Force. Council concurred to add this to the Task Force's list of items to address.

Discussion of Sugar Loaf Mountain (Feierbach)

Councilmember Feierbach stated changes to use and access of Sugarloaf Mountain were being proposed by the City of San Mateo, and they may be asking for monetary assistance from Belmont. She provided some information to Council so they may be aware of this upcoming issue, since this could have an impact on Belmont.

MEETING EXTENSION: At this time, being 12:30 a.m., on a motion by Councilmember Dickenson, seconded by Councilmember Lieberman, the meeting was unanimously extended by thirty minutes by a show of hands.

Discussion and direction regarding creation of "parking districts" and parking regulations citywide (Dickenson)

Councilmember Dickenson stated he would like to review parking restrictions for conformity, primarily in the economic centers of Belmont. He would also like to look into the potential for using office parking during evening hours.

Council concurred they would like to address this issue, and staff will advise whether this item will need to be placed on the Priority Calendar or can be taken up at this time.

ADJOURNMENT at this time, being 12:35 a.m.

Terri Cook

Belmont City Clerk

Meeting Tape Recorded and Videotaped
Audio Recording 625
minutes approved 2/28/2006